

This letter discusses tax/fee-free sales of fuel under the Underground Storage Tank Tax and the Environmental Impact Fee. 35 ILCS 505/2a and 415 ILCS 125/310. (This is a GIL).

July 3, 2001

Dear Xxxxx:

This letter is in response to your letter dated May 31, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

This letter is in response to assessments sent to AAA in regard to Schedule LD, Environmental Impact Fee and Leaky Underground Storage Fee, and BBB listed under this schedule as a License Receiver. BBB is not a Licensed Receiver however, they are claiming they are exempt because their customers are holders of Certificates of Public Convenience and Necessity. My request is that you read the attached 5 pages from BBB and fax a letter ruling to my attention explaining the states decision.

Please respond also to the following questions.

Is BBB Exempt from the Fees because of the way they are doing business?

Would a list of BBB Customers, signed by the President of BBB, such as the attached list, be sufficient to satisfy the state of Illinois and release AAA from the liability of the Underground Storage Fee and Environmental Impact Fee and place the liability on BBB?

If the above answer is yes:

Would we then file BBB on schedule LB?

Or would we list their Customers on our schedule LB.?

How often would BBB fuel have to submit this letter to AAA?

Thank You for Your Consideration.

With regard to the Underground Storage Tank Tax, Section 2a of the Motor Fuel Tax Law, 35 ILCS 505/2a, provides that "no such tax shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 300,000 operations per year, for years prior to 1991, and over 170,000 operations per year beginning in 1991, located in a city of more than 1,000,000

inhabitants for sale to or use by holders of certificates of public convenience and necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above.” In addition, Section 2a provides that “no such tax shall be imposed when the sale is made...to a person holding a valid license as a receiver.”

With regard to the Environmental Impact Fee, Section 310 of the Environmental Impact Fee Law, 415 ILCS 125/310, provides that “no fee shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 170,000 operations per year, located in a city of more than 1,000,000 inhabitants, for sale to or use by holders of certificates of public convenience and necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above.” In addition, Section 310 provides that “no fee may be imposed when the sale is made...to a person holding a valid license as a receiver.”

You have indicated that BBB is not licensed as a receiver. Therefore, AAA may not sell fuel to BBB tax/fee-free on that basis. You have also not indicated that BBB is the holder of a certificate of public convenience and necessity or foreign air carrier permit, issued by the United States Department of Transportation, or an air carrier affiliate of such certificate or permit holder. Therefore, we are unable to conclude that AAA’s sales to BBB would qualify for tax/fee-free treatment on that basis. The fact that BBB’s customers may hold certificates of public convenience and necessity or foreign air carrier permits, issued by the United States Department of Transportation, or be air carrier affiliates of such certificate or permit holders, does not allow AAA to sell fuel tax/fee-free to BBB.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department’s Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.